



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20230  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 609,578	06 30 2000	Roger K. Kulle	12465US01	1790

7590 12 11 2002

Joseph M Barich  
McAndrews Held & Malloy Ltd  
500 West Madison Street  
34th Floor  
Chicago, IL 60661-2511

EXAMINER

EASTHOM, KARL D

ART UNIT	PAPER NUMBER
----------	--------------

2832

DATE MAILED: 12 11 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No  
**09/609,578**

Applicant(s)  
**Kulle**

Examiner  
**Karl Easthom**

Art Unit  
**2832**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

If the period for reply specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any awarded patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Oct 25, 2002

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-6, 8-16, and 18 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 8-12 is/are allowed.

6) ☒ Claim(s) 1-3, 5, 6, 13-15, and 18 is/are rejected.

7) ☒ Claim(s) 4 and 16 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1 Certified copies of the priority documents have been received.

2 Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1 Notice of References Cited (PTO-892)

4 Interview Summary (PTO-413) Paper No(s).

2 Notice of Draftsperson's Patent Drawing Review (PTO-948)

5 Notice of Informal Patent Application (PTO-152)

3 Information Disclosure Statement(s) (PTO-1449) Paper No(s).

6 Other:

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson..

Peterson discloses the claimed invention at Fig. 8 with Hall sensor 134, 135 and magnets of opposite polarity 132, 133, with switch housing 94, and carriage 119h. In claim 5, the N pole and S pole face the Hall sensor 135, so that the claim is met. At col. 7, the magnets "can" be encased in plastic, which means they need not be, in which case they would touch due to the mutual attraction.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims ~~8 and 14~~ <sup>8 and 15</sup> are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson al. in view of Garneyer et al. Peterson discloses the claimed invention except the boot seal. Garneyer et al. discloses boot seal 11 for keeping unwanted fluids out of the housing at col. 3, lines 20-36.. In view of Garneyer, it would have been obvious to use a seal for that purpose in the device of Padula.

5. Claims 1-3, 5-6, 13-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garneyer et al. in view of Peterson. Garneyer discloses the claimed invention at Fig. 2 except the magnets of opposite polarity touching each other. Peterson at Fig. 8 discloses the magnets of opposite polarity touching with a motivational purpose of sending different signals to different Hall switch devices, or to simply increase the size of the magnets by doubling same with another one. It would have been obvious to employ the scheme where multiple Hall devices and magnets are disclosed and suggested at col. 4, lines 1-12 of Garneyer. The multiple magnets meet claims 12 and 17. The spring is 4a, with Hall switches and magnets 8a, 7a, actuating members 3 and housing 1. The seal is 11, 12.

6. Claims 8-12 are allowable.

7. Claims 4 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


8. Applicant's arguments filed 10/25/02 have been fully considered but they are not persuasive. Applicant argues that there is a gap separating the magnets 132 and 133. However, as pointed out by applicant, if there is a gap, it is due to a plastic that "can" surround the magnets, col. 7, lines 30-40. This means that the disclosure contemplates that a gap need not be filled by the material. The motivation for the combination of Garneyer and Peterson is noted and would meet the claim for reasons noted.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703)308-3306. The examiner can normally be reached on M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached on (703)308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
KARL D. EASTHOM  
PRIMARY EXAMINER

  
KARL  
PRI